

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jesse Spieler-Jones	Team: Team # 5	CCRB Case #: 201107102	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/26/2011 6:22 AM	Location of Incident: Mount Morris Park West and West 121 Street	Precinct: 28	18 Mo. SOL 10/26/2012	EO SOL 10/26/2012	
Date/Time CV Reported Thu, 06/02/2011 11:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/02/2011 11:47 AM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Brian Davis	25667	931624	028 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Sunil Gidarisingh	27921	945759	028 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Brian Davis	Discourtesy: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)				

Case Summary

§ 87(2)(b) filed this complaint with the CCRB over the telephone on June 2, 2011 (encl. 3A-B). Earlier that same day, at approximately 6:22 a.m., § 87(2)(b) was walking his dogs in the vicinity of the intersection of Mount Morris Park West and West 121st Street in Manhattan when he was approached by PO Brian Davis of the 28th Precinct and issued three summonses for failing to properly dispose of his dog's waste, "dog nuisance in public commonplace" and failing to ensure that his dog had a registration tag. The following allegation resulted:

- **Allegation A – Discourtesy:** PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

Testimony

§ 87(2)(b) made statements pertaining to this incident in filing his complaint with the CCRB on April 26, 2011 (encl. 3A-B) and during a sworn statement at the CCRB on January 13, 2012 (encl. 4A-E). His statements were generally consistent and are summarized below with inconsistencies noted.

On April 26, 2011, at approximately 6:22 a.m., § 87(2)(b) left his apartment building at § 87(2)(b) in Manhattan to take his two dogs for a walk. He walked his dogs up Mount Morris Park West toward West 123rd Street. While he was walking, one of his dogs defecated and he picked the waste up with a bag, which he carried with him. Upon reaching West 123rd Street, § 87(2)(b) turned around and began to walk South back toward West 121st Street. As § 87(2)(b) passed West 122nd Street, he disposed of the bag of dog waste in a trash bin.

As § 87(2)(b) was reaching West 121st Street, he heard police sirens behind him and, within seconds, saw a marked RMP come from behind him and turn right onto West 121st Street, blocking his path across the intersection. A uniformed black male officer, identified by the CCRB as PO Brian Davis of the 28th Precinct, exited the passenger seat of the car; his partner, identified by the CCRB as PO Sunil Gidarisingh, exited the driver's seat. As soon as PO Davis exited the police car, he began yelling, "Show me some fucking ID!" In response to PO Davis's yelling, § 87(2)(b)'s Pekinese began to bark. § 87(2)(b) told PO Davis that he did not have any ID. PO Davis said, "You didn't pick up your dog's shit" and "nobody wants to pick up your dog's shit." In filing his complaint, § 87(2)(b) alleged that PO Davis called him a "motherfucker"; however, he did not repeat this during his in-person testimony. § 87(2)(b) replied that he had, in fact, picked up his dog's waste, and offered to take PO Davis to the

garbage can to show him. PO Davis said, “Fuck that.” (PO Davis said “fuck that” a total of two or three times during the incident.) After PO Davis retrieved a ticket book from the trunk of his RMP, he wrote out three summonses and then gave them to § 87(2)(b) saw that one summons was for dog nuisance in public commonplace, one was for failing to pick up dog waste and the third was for his dog not having a registration tag. § 87(2)(b) then walked away and returned to his apartment. PO Gidarisingh never spoke during the incident. § 87(2)(b) later went to court for all three summonses. The barking summons was dismissed and the failure to dispose of dog waste fine was reduced to \$25. § 87(2)(b) saw on his summonses that all three were filled out by PO “Davis,” tax registry number 931624, from the 28th Precinct.

NYPD Statements:

Subject Officer: PO BRIAN DAVIS

- *PO Davis is a § 87(2)(b) old at the time of the incident.*
- *PO Davis worked in uniform with PO Gidarisingh from 11:15 p.m. on April 25, 2011 to 7:50 a.m. on April 26, 2011. The officers were assigned to marked conditions auto 4587.*

Memo Book (encl. 5A)

At 6:20 a.m., PO Davis stopped § 87(2)(b) in front of § 87(2)(b) and issued him summonses § 87(2)(b) 3. He served these summonses at 6:40 a.m.

Summonses (encl. 6A)

PO Davis issued § 87(2)(b) summons § 87(2)(b) for “dog nuisance,” summons § 87(2)(b) for failing to clean up dog waste and summons § 87(2)(b) for no license tags on dog collar.

Testimony (encl. 7A-B)

PO Brian Davis was interviewed at the CCRB on March 2, 2012. On April 26, 2011, at approximately 6:20 a.m., PO Davis and his partner, PO Gidarisingh, were parked across the street from § 87(2)(b) in Manhattan. PO Davis was sitting in the passenger seat, which was facing this building, PO Davis saw § 87(2)(b) walking his two dogs in front of this location. One of the dogs defecated in front of a brownstone. § 87(2)(b) then began to walk away without having cleaned up the dog waste. Once § 87(2)(b) had walked about half a block, passing a trash can in the process, PO Gidarisingh and PO Davis, who had been watching § 87(2)(b) the entire time, exited their vehicle and approached § 87(2)(b). At this time, it was PO Davis’s intention to issue § 87(2)(b) a summons. PO Davis asked § 87(2)(b) if he intended to pick up his dog’s waste. § 87(2)(b) replied, “Yeah, I can. Let me go into my house and I’ll come back later to pick it up.” PO Davis then obtained § 87(2)(b) s identification, retrieved the summons book from the officers’ RMP and issued § 87(2)(b) a summons for failing to dispose of his dog’s waste. He then asked § 87(2)(b) if he had any dog tags for his dogs. When § 87(2)(b) replied that he did not, PO Davis issued him a summons for no dog tags. PO Davis denied using any profanity during the incident and specifically denied saying any of the following: “Show me your fucking ID,” “You didn’t pick up your dog shit,” “Nobody wants to pick up your dog shit,” “Fuck that,” and “Motherfucker.”

Witness Officer: PO SUNIL GIDARISINGH

- *PO Gidarisingh is a § 87(2)(b) at the time of the incident.*

- *PO Gidarisingh worked in uniform with PO Davis from 11:15 p.m. on April 25, 2011 to 7:50 a.m. on April 26, 2011. The officers were assigned to marked conditions auto 4587.*

Memo Book (encl. 8A-C)

At 6:20 a.m., § 87(2)(b) was stopped at Moutn Morris Park West and West 121st Street for failing to pick up his dog's waste. At 6:40 a.m., three summonses were issued.

Testimony (encl. 9A-B)

PO Gidarisingh was interviewed at the CCRB on March 2, 2012. His statement was consistent with that of PO Davis and there are no pertinent inconsistencies or additions to note.

Summonses for Incident and Dispositions (encl. 11A-D)

- On March 28, 2012, a search of the E-Courts summons record database revealed no record of any of the summonses from the incident.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of April 20, 2012 with regard to the incident.

§ 87(2)(b)

Civilian CCRB History (encl. 2A)

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officer CCRB History (encl. 1A)

- PO Brian Davis has been a member of the service for nine years and there is one substantiated CCRB allegation against him:
 - In case 200708090, an allegation that PO Davis damaged an individual's property was substantiated; however, the DAO declined to prosecute the case.

Conclusion

Identification of Subject Officer

- During the incident, § 87(2)(b) observed the black male officer who allegedly cursed at him fill out the three summonses that he was issued and then observed that the name "Davis," the tax registry number 931624, and the command 28th Precinct were written on all three summonses. CTS indicates that tax registry number 931624 belongs to PO Brian Davis, a black male who is assigned to the precinct of occurrence. Consequently, Allegation A is pleaded against PO Davis.

Investigative Findings and Recommendations

Allegation A: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Davis used profanity while speaking with him. PO Davis and PO Gidarisingh, who were the only two officers present for the incident, both denied that this occurred. There are no known witnesses to the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date